IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

DONNA CURLING, et al. :

Plaintiff, : CIVIL ACTION FILE NO.:

1:17-cv-2989-AT

VS.

DDIAND VEMD at al

BRIAN P. KEMP, et al.

Defendant. :

COBB COUNTY DEFENDANTS' RESPONSE BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR EXPEDITED DISCOVERY

Come now, Cobb County Board of Elections and Registration ("Cobb BOE"), Janine Eveler, Director of Cobb BOE, and the members of the Cobb BOE, Joe Daniell, Fred Aiken, Joe Pettit, Jessica Brooks and Daryl O. Wilson (collectively the "Cobb Defendants"), and hereby join in the response brief filed on behalf of the State Elections Board and Secretary of State Brian Kemp [Doc. 28] and the response brief filed on behalf of Fulton County Defendants [Doc. 29], opposing Plaintiffs' Motion for Expedited Recovery [Doc 4].

Specifically, the Cobb Defendants join the arguments set forth in the briefs of the State and Fulton County Defendants indicating that the elections contest and other claims brought by Plaintiffs are moot under the U.S. Supreme Court's ruling in Roudebush v. Hartke, 405 U.S. 15, 19 (1972) and the subsequent Federal Court

of Appeals rulings that have applied that decision. In addition, the Cobb Defendants are entitled to the same immunity as the Fulton Defendants and a grant of expedited discovery would amount to denial of that immunity. *See*, <u>Bouchard Transp. Co v. Fla Dep't of Envtl. Prot.</u>, 91 F. 3d 1445 (11th Cir. 1996) Finally, the Cobb Defendants have been placed under the same undue hardship as the Fulton County Board of Elections and Registrations with regard to Plaintiffs' request that the DRE machines from the April 18, 2017 and June 20, 2017 be held out of use for the upcoming elections in November 2017, and the Court should deny Plaintiff's request because of that undue hardship.

For the reasons set forth above, the Cobb County Defendants join in the responses of the State Elections Board and the Fulton Defendants in opposing Plaintiffs' Motion for Expedited recovery, and all of the arguments set forth therein are incorporated herein by reference.

Respectfully submitted this 22nd day of August, 2017.

HAYNIE, LITCHFIELD, CRANE & WHITE, PC

/s/Daniel W. White_

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CERTIFICATE OF COMPLAINCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

/s/Daniel W. White
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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2017, I electronically filed the foregoing COBB COUNTY DEFENDANTS' RESPONSE BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR EXPEDITED DISCOVERY with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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PATRISE M. PERKINS-HOOKER KAYE BURWELL CHERYL RINGER Attorneys for Fulton County Defendants

I hereby certify that I have mailed by United States Postal Service the document to the following parties who have not yet appeared for notice purposes on CM/ECF system:

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